(21)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 3675 of 2007

PETITIONER : Gregari Basant Kumar Khakha, S/o- Shri Gavrial, Aged about 39 years, Presently working as In-charge Sub Divisional Officer, Sub Division – Raigarh, Distt. Raigarh, Chhattisgarh.

VERSUS

RESPONDENTS : 1. State of Chhattisgarh, Through – Secretary, Deptt. of Public Works, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.

2. Deputy Secretary, Department of Public Works, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Pankaj Shrivastava, Advocate for the petitioner.
Shri Y.S.Thakur, Govt. Advocate for the State/respondents.

ORDER

(Passed on 29th day of June, 2007)

1. Learned counsel appearing for the petitioner submits that the petitioner was promoted vide order dated 11.08.2003 on ad-hoc basis from the post of Sub Engineer (Civil) to Assistant Engineer (Civil). Subsequently, by the impugned order dated 25.04.2007 (Annexure P/1), the promotion of the petitioner on ad-hoc basis was cancelled and the petitioner was reverted back to the original post of Sub-Engineer (Civil).

2. The question of law as to whether an ad-hoc appointee has right to the post and to continue on the said post is no longer res-integra. The appointment/promotion on ad-hoc basis cannot be held as appointment/promotion in consonance with the constitutional scheme of employment. Thus, the petitioner has no right to the promoted post as laid down by the Supreme Court in catena of decisions to continue on the said post.

3. Contention of the learned counsel for the petitioner that the petitioner was promoted alongwith several other persons, therefore it was a regular promotion, is rejected as on the perusal of the order of promotion on ad-hoc basis, it is apparent on the order itself that promotion of the petitioner was purely on ad-hoc basis. Therefore, the said promotion cannot be held as regular promotion. Further, this fact is evident from the note of the promotion order wherein it is clearly stated that the promotion of the petitioner on ad-hoc basis would be regularised in accordance with circular dated 01.01.2002. Thus, it is clearly established that the promotion of the petitioner was on ad-hoc basis not on regular basis.

4. It is well settled principle of law that any appointment / promotion dehors the constitutional scheme of the employment and not in consonance with the provisions of law on ad-hoc basis or temporary, is not legal and the employee does not acquire any right to continue on the post and other benefits of the regular service.

5. In view of the settled position of law, ad-hoc or contract promotees have no right to the post of their promotion, which was not in accordance with the constitutional scheme and not in accordance with any Rules, Regulations as framed under the proviso to Article 309 of the Constitution of India.

6. In view of the foregoing, the petition is dismissed, summarily.

Sd/-
Satish K. Agnihotri
Judge

Amit